

1 SHAWN N. ANDERSON
United States Attorney
2 ROSETTA L. SAN NICOLAS
Assistant U.S. Attorney
3 Sirena Plaza, Suite 500
108 Hernan Cortez Avenue
4 Hagåtña, Guam 96910
PHONE: (671) 472-7332
5 FAX: (671) 472-7215

6 Attorneys for the United States of America

7 IN THE UNITED STATES DISTRICT COURT

8 FOR THE TERRITORY OF GUAM

9 UNITED STATES OF AMERICA,
10
Plaintiff,
11
vs.
12 RICKY JAMES JR. SALAS SANTOS,
13
Defendant.

CRIMINAL CASE 20-00021

**UNITED STATES' SUBMISSION RE:
JURY NULLIFICATION**

14
15 Comes now the United States, through Rosetta L. San Nicolas, Assistant U.S. Attorney
16 and provides this submission regarding jury nullification. The Government objects to any jury
17 questions, argument, or evidence directed at jury nullification.

18 In *United States v. Kleinman*, 880 F.3d 1020 (9th Cir. 2017), the Ninth Circuit explained:

19 Jury nullification occurs when a jury acquits a defendant, even though the government
20 proved guilt beyond a reasonable doubt. *United States v. Powell*, 955 F.2d 1206, 1212–13
21 (9th Cir. 1991). It is well established that jurors have the power to nullify, and this power
is protected by “freedom from recrimination or sanction” after an acquittal. *Merced v.*
McGrath, 426 F.3d 1076, 1079 (9th Cir. 2005). However, juries do not have a *right* to
22 nullify, and courts have no corresponding duty to ensure that juries are able to exercise
this power, such as by giving jury instructions on the power to nullify. *Id.* at 1079–80.
23 On the contrary, “courts have the duty to forestall or prevent [nullification], whether by
firm instruction or admonition or ... dismissal of an offending juror,” because “it is the
24 duty of juries in criminal cases to take the law from the court, and apply that law to the
facts as they find them to be from the evidence. *Id.*

The Government objects to any jury questions, argument, or evidence directed at jury nullification.

Respectfully submitted this 15TH day of October, 2020.

SHAWN N. ANDERSON
United States Attorney
Districts of Guam and the NMI

By: /s/ Rosetta L. San Nicolas
ROSETTA L. SAN NICOLAS
Assistant U.S. Attorney